IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

227 **CRM-M-5963 of 2023 (O&M)**
Date of Decision:09.02.2023

Suresh Kumar

....Petitioner

Versus

State of U.T. Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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Present: Mr. Varinder Arora, Advocate,
for petitioner.

Mr. Viranjeet Singh Mahal, Addl. PP, U.T. Chandigarh

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JASGURPREET SINGH PURI, J. (Oral)

The present second petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.17 dated 28.01.2021, under Sections 420, 467, 468, 471, 474, 120-B IPC, registered at Police Station, South Sector-34, Chandigarh.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody from 08.02.2021, which is more than two years. He submitted that although this is a second successive bail petition but his first bail petition was dismissed as withdrawn at that stage on 06.08.2021.

Learned counsel for the petitioner submitted that now the custody of the petitioner is more than two years and all the material witnesses have already been examined. The complainants of the present case who are stated to

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be victims have not supported the prosecution version and they have been declared hostile. He submitted that the allegations in the present case were that there was a co-accused namely Rashmi Negi who had taken money from different students/persons and had supplied them fake visas and those fake visas were obtained from the petitioner and it was on the basis of the statement of the aforesaid co-accused Rashmi Negi that the name of the petitioner was nominated with the result that he has faced incarceration for more than 2 years. He submitted that the aforesaid co-accused Rashmi Negi has already been extended the benefit of bail by the learned trial Court and apart from the same, complainants/victims have already been examined and they have not supported the prosecution version. He further submitted that it is a case which is triable by the Magistrate and therefore considering the aforesaid facts and circumstances, the petitioner may be considered for the grant of regular bail.

Mr. Viranjeet Singh Mahal, learned Additional Public Prosecutor, U.T. Chandigarh has submitted that it is correct that the petitioner is in custody for more than two years, i.e. from 08.02.2021 and the present is a case triable by the Magistrate whereby the victims/complainants of the present case have already been examined and have not supported the prosecution version. He submitted that it is also correct that the other main co-accused namely Rashmi Negi is already on bail in this case. He has however stated that the petitioner is involved in five more cases of similar nature.

I have heard the learned counsel for the parties.

The petitioner has already faced incarceration for more than two years. The present is a case which is triable by the Magistrate. The allegations were pertaining to supplying of fake visas by the main accused namely Rashmi

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Negi after obtaining the same from the petitioner and the aforesaid co-accused namely Rashmi Negi is stated to be already on bail in the present case. The complainants/victims have not supported the prosecution version at the time of trial and have been declared hostile. Therefore, pendency of other cases against the petitioner will not become a ground for denial of bail to the petitioner and considering the aforesaid facts and circumstances, especially the custody of the petitioner, the second successive bail petition would certainly be maintainable.

In view of the above totality of facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of the present petition.

(JASGURPREET SINGH PURI)
JUDGE

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Whether speaking : Yes/No

Whether reportable : Yes/No

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